

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTHONY HARLAN,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

4:24CV3054

MEMORANDUM AND ORDER

On April 8, 2024, the Court notified Petitioner that it would characterize his “Notice of Removal,” [Filing No. 1](#), and “Motion for Judicial Review,” [Filing No. 2](#), as a petition for writ of habeas corpus pursuant to [28 U.S.C. § 2254](#), and directed Petitioner to amend his petition to cure certain deficiencies if he wished to proceed. [Filing No. 5](#). The Court reserved ruling on Petitioner’s Motion for Leave to Proceed in Forma Pauperis (“IFP”), [Filing No. 4](#), until after he had an opportunity to respond to the Court’s order. On May 13, 2024, Petitioner filed a Motion for Extension of Time, [Filing No. 7](#), dated May 3, 2024, which the Court now addresses along with Petitioner’s IFP Motion.

In his Motion for Extension of Time, Petitioner seeks a 90-day extension to file his amended habeas petition. [Filing No. 7](#). Upon consideration, the Court will grant Petitioner’s motion, but Petitioner is warned that **no further extensions will be granted**.

Turning to Petitioner’s IFP Motion, habeas corpus cases attacking the legality of a person’s confinement require the payment of a \$5.00 fee. [28 U.S.C. § 1914\(a\)](#). The Court has reviewed Petitioner’s application to proceed IFP pursuant to [28 U.S.C. § 1915\(a\)\(1\)-\(2\)](#). Petitioner’s trust account information shows that Petitioner’s account

contained an average monthly balance of \$100 or more for the six-month period immediately preceding the filing of the petition. [Filing No. 8](#). Thus, the Court concludes that Petitioner must be required to pay the \$5.00 filing fee because he has the financial ability to do so. See [28 U.S.C. § 1915\(a\)](#).

IT IS THEREFORE ORDERED that:

1. Petitioner's request to proceed IFP, [Filing No. 4](#), is denied.
2. Petitioner must pay the \$5.00 filing fee by **June 17, 2024**. Petitioner is warned that if the fee is not paid as required, the Court may dismiss this case without further notice.
3. Petitioner's Motion for Extension of Time, [Filing No. 7](#), is granted. Petitioner shall have until **August 6, 2024**, to file an amended habeas petition. **No further extensions will be granted**. Failure to file an amended petition within the time allowed will result in this matter being dismissed without prejudice and without further notice to Petitioner.
4. The Clerk of the Court is directed to set the following pro se case management deadlines in this case using the following text:
 - a. **June 17, 2024**: deadline for Petitioner to pay \$5.00 filing fee;
 - b. **August 6, 2024**: deadline to file amended habeas petition.

Dated this 17th day of May, 2024.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Judge